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SUBJECT: U.S./IRAQ SOFA: NEGOTIATING ABOUT NEGOTIATING

Classified By: Ambassador Ryan C. Crocker for reasons 1.4 (b) and (d).

11. (S) Summary: The first meeting of the full U.S. and Iraqi Status of Forces Agreement negotiating teams on March 11 was largely a ceremonial affair in which the two sides introduced themselves and their opening positions. The press was not present. The Iraqis continued to press their vision of a single "agreement" that would encompass the full range of political, economic, diplomatic and security relationships between the two countries. Moreover, the Iraqis argued that the negotiations should proceed step by step, starting first with the economic realm and only moving on to other issues after that was completed. The U.S. team argued for a separate arrangement on the Strategic Framework and an agreement on the presence of U.S. forces in Iraq. These should be pursued simultaneously, but the Strategic Framework should be negotiated at the political level while a technical team negotiates the SOFA. While the issue was not entirely resolved, the Iraqis agreed to refer to "agreements and arrangements" in their press communique. In a private conversation after the plenary, Iraqi Head of Delegation Ambassador Mohammed Haj Hamoud admitted to U.S. SOFA Negotiator Ambassador Robert Loftis that the Iraqi construct was unworkable and asked for help in persuading the Prime Minister to change his instructions. We anticipate that most of the negotiations from here forward will be with Ambassador Hamoud and a small group of advisors, rather than in plenary sessions. End Summary.

Different Expectations and Mandates

12. (C) The first plenary session of Status of Forces Agreement negotiations convened in Baghdad at the Ministry of Foreign Affairs on March 11, 2008, and immediately revealed a gap in understanding of what each side came to the table to negotiate. The Iraqi delegation, led by Deputy Foreign Minister Mohammed Haj Hamoud, believes itself to be under instructions to negotiate both the Strategic Framework (plus a series of agreements in the non-security spheres) and the SOFA, preferably as a single document. The U.S. side, led by Ambassador Loftis, is empowered solely to work on the Status of Forces Agreement.

13. (C) Accompanying the U.S. delegation, NSC Senior Director Brett McGurk explained the U.S. vision of the distinction between the SOFA and the Strategic Framework - with the latter addressing the broad spheres of our relationship, including economics, cultural, diplomatic, and security. He further explained that this Framework document will be signed by President Bush and Iraq's national leadership. Ideally, it should be negotiated at the national leadership level, with technical negotiations on the SOFA (which is the key enabler to the security vision outlined in the Framework document) proceeding in parallel between the two expert teams. (Comment: The Strategic Framework is designed in part to take the spotlight off the SOFA and place our security relationship in a broader frame - which will be essential to

the Iraqis ultimately selling the SOFA to their people and the parliament. Iraqi hesitancy to address SOFA issues is likely due in part to the fragile political situation and contentious issues that the SOFA (including authorities for combat, detention, and jurisdiction over private contractors) will entail. End Comment.)

¶4. (C) In his opening statement, Ambassador Hamoud expressed the GOI's strong commitment to creating a long term strategic relationship with the United States, emphasizing frequently that such a relationship must respect the sovereignty of Iraq. He acknowledged receipt of our drafts on the Strategic Framework and the Status of Forces, and said that the Iraqi delegation needs some time to study the documents, and to prepare its responses and lists of questions and comments. Hamoud also noted that his government is in the process of preparing its authorization to negotiate, and asked for a document from the United States empowering the United States team to negotiate. (Comment: Although not common, some governments do ask for such authorizations "for the record." End Comment.) Hamoud added that between the preparations and his other duties, including foreign travel, the Iraqi team would not be able to meet again until Sunday, March 23.

¶5. (C) Loftis described the U.S. vision of the SOFA as addressing both the enduring relationship and the special requirements of the current situation in Iraq. Regarding the former, the United States envisions an agreement much like those it has with other friends and partners. To assist Iraq in the current security environment, the agreement should also grant temporary authorities to conduct combat operations, detain persons for imperative reasons of security, and maintain exclusive jurisdiction over certain categories of Department of Defense (DOD) contractors.

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Loftis also noted that the U.S. would approach Iraq about U.S. jurisdiction over certain non-DOD contractors, outside of this agreement. The Iraqi side did not respond substantively.

¶6. (C) After further discussion about the two sides' differing mandates, Ambassador Hamoud produced a short draft press release noting that the two sides had met to begin negotiation of a long term "Agreement on Cooperation and Friendship." Pushing back against this phrasing, Loftis and McGurk won agreement that the communique issued by the Iraqi Ministry of Foreign Affairs should simply say that the two sides were engaged in negotiations on "reaching agreements and arrangements on long term cooperation and friendship between the two countries, including an agreement on the temporary presence of U.S. forces."

Structure of Negotiations

¶7. (S) After the plenary session, Ambassador Loftis met alone with Ambassador Hamoud to discuss further the structure of the negotiations. Hamoud said that the structure on the Iraqi side is unworkable, but that it reflects what he believes are the current instructions from Prime Minister Maliki that one team negotiate both the Strategic Framework and the Status of Forces Agreement, focusing first on economic issues. He asked that Ambassador Crocker persuade the Prime Minister to move responsibility for the Strategic Framework away from Hamoud's team to the Executive Council. Hamoud reiterated that he has little confidence in many members of his team, and that he expects to do much of the negotiation with only a handful of advisors.

¶8. (C) Note: The Iraqi team has strongly requested that the members of its delegation, including the lead, not be publicly identified by name. End Note.

Assessment

¶9. (S) Comment: The results of the first plenary are not surprising, and reflect both Iraqi inexperience and high expectations. Private conversations indicate that the Iraqis will refine their teams for a more productive approach. Once that happens, we anticipate that the Iraqi team will be more willing and ready to engage on the substance of status of forces issues.

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